

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
**Trademark Trial and Appeal Board**  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Hassan/CBG

Mailed: January 9, 2003

Concurrent Use No. 94002016

Test Masters Educational  
Services, Inc.

v.

Robin Singh

Cindy B. Greenbaum, Interlocutory Attorney:

Test Masters Educational Services, Inc. ("Test Masters"), the applicant in application serial no. 76/306308, has applied to register the mark TEST MASTERS. The services are identified as follows: "educational services, namely, providing courses of instruction and materials to prepare students to take and achieve higher scores on standardized tests."<sup>1</sup> In its concurrent use application, Test Masters claims the entire State of Texas as its geographic territory, and asks the Board to grant it a concurrent use registration in accordance with the "final judgment of the United States District Court for the Southern District of Texas, issued June 8, 2001, in Civil

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<sup>1</sup> Filed August 28, 2001, claiming March 17, 2002 as the date of first use and first use of the mark in commerce.

Action No. H-99-2781."<sup>2</sup> Said final judgment orders the Director of the PTO to restrict Robin Singh's registration for TESTMASTERS<sup>3</sup> to the entire United States except the State of Texas, and to grant Test Masters "exclusive rights to use the federally-registered service mark 'TESTMASTERS' only within the State of Texas" (emphasis in the original).

Although Test Masters has met the first four of the five conditions set forth in 37 CFR Section 2.99(f), Robin Singh's involved registration has not already been restricted by the Director in accordance with the court decree. Therefore, the Board must institute a concurrent use proceeding solely for the purpose of so restricting the involved registration. See TBMP Section 1102.02(b).

**Accordingly, Concurrent Use No. 94002016 is hereby instituted under the provisions of Section 2(d) of the Trademark Act of 1946.**

**Robin Singh is allowed until sixty days from the mailing date of this order in which to show cause why Registration No. 2234514 should not be restricted in accordance with the court decree. Additionally, both parties are allowed until sixty days in which to advise the Board of any other related pending federal applications**

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<sup>2</sup> Test Masters attached to its application a copy of the final court order.

<sup>3</sup> Registration No. 2234514, issued March 23, 1999, for "educational services, namely, providing courses of instruction and materials to prepare students to take and achieve higher scores on standardized admission tests for graduate and

**and/or federal registrations which should be involved in this proceeding.**

If there are no other related pending federal applications and/or registration which should be involved in this proceeding, and if Robin Singh does not show good cause why the Board should not restrict Registration No. 2234514 in accordance with the court decree, Registration No. 2234514 will be ordered so restricted, Test Masters will be found entitled to the registration sought, and the instant concurrent use proceeding will be dissolved. See TBMP Section 1102.02(b).

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professional schools," claiming August 26, 1991 as the date of first use and first use in commerce.